



August 24, 2011

Attention Items Update:

The Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects (OFC) published its first Attention Items Update in February 2011. The semi-annual updates serve to help keep track of permitting and other regulatory issues for the Alaska North Slope natural gas pipeline as proposed by The Alaska Pipeline Project (APP), a partnership between TransCanada and ExxonMobil. The updates follow on the Federal Coordinator's implementation plan for the project, released in June 2010.

The August 2011 status of the majority of the issues has not changed significantly since the February 2011 update. The Federal Coordinator's office continues to monitor the issues, while coordinating efforts between federal agencies and the project applicant as appropriate. A summary of these items and key milestones is available at <http://www.arcticgas.gov/attention-items-details>.

There are also a few more challenging items that the project applicant is working through as it moves toward filing its application with the Federal Energy Regulatory Commission. APP has assured the Federal Coordinator's office of its intent to resolve the issues in time for a complete project application to FERC and has requested the Federal Coordinator's assistance in working through the issues with federal agencies. APP has devoted significant staff to the project and — with resolution of the remaining issues and assistance from the OFC — has the full potential to meet the October 2012 FERC application date specified in TransCanada's cost-reimbursement agreement with the state of Alaska under the Alaska Gasline Inducement Act. Timely resolution also will allow the project to stay on schedule for the environmental impact statement and permitting necessary to achieve APP's own timeline of first gas deliveries in 2020. The risk — which APP is committed to avoid — would be to fall short of providing federal regulatory agencies with the timely information needed to stay on schedule.

The Federal Coordinator's office has identified the following challenges that the applicant is working to resolve:

Data Collection and Field Season Plans

The applicant published a data gap analysis and field sampling plan April 2, 2010, outlining the project's environmental data needs and a timeline for collecting that data. As of August 2011, the applicant had shared limited information with federal agencies regarding details on the data collected and the data still to be collected for the FERC filing in October 2012, though the APP project team is preparing the data to share with agencies this fall. The applicant acknowledges the importance of sharing the data in detail with permitting agencies for verification to stay on schedule for its FERC application, National Environmental Policy Act (NEPA) analysis and agency authorizations. The applicant has said it will share with agencies this fall its schedule for completing the studies identified in APP's 2010 data gap analysis;

agencies need to know when the work will be done or why APP believes certain studies are no longer needed.

APP's current schedule indicates that agencies will receive a full set of the project's draft resource reports (covering environmental and other issues) in December 2011 and revised resource reports in August 2012, before the complete project application to FERC in October 2012 that will include a final version of the resource reports. If APP has to collect additional data needed for the NEPA analysis during 2012, it will be challenging to complete the field work, analyze the data and present it to agencies by the end of the summer for their review, culminating in the complete application to FERC by October. In addition to those tight time constraints, such a pushed schedule for summer 2012 would put pressure on agencies to review and comment on the new data fast enough to allow APP to address any comments before the October filing.

The applicant is working with FERC, the OFC and federal agencies to ensure that all of the relevant data needed for the NEPA analysis is available for a complete application to FERC. Supplemental information needed for permits and agency approvals after the NEPA analysis could come later, so long as APP and the agencies agree on the delivery sequence of the data. Therefore, it is important that APP share with federal agencies the data and protocols used in collecting that data and agree on a data submittal plan moving forward to ensure that adequate information is provided to agencies in a timely manner. APP has agreed to work with the Federal Coordinator's office and FERC to schedule one-on-one meetings with federal permitting agencies this fall to share detailed permit-related information in an effort to ensure sufficient, timely data is provided to the agencies.

Permit Plan

APP has told FERC and federal agencies that it intends to divide its data collection and submission between: 1) The information needed by October 2012 for a complete application to FERC (facilitating the FERC-led NEPA analysis); and 2) The data that would be provided later for other federal reviews and permits required to begin construction. The applicant is aware that FERC, the OFC and permitting agencies are concerned that such a phased data-submission plan could affect the completeness of the FERC application and has committed to present and fully explain details of its permit plan early this fall.

An example of this phased data-submittal approach is the required Army Corps of Engineers approval for ocean dumping of dredged material. The OFC identified this as a critical-path issue in its February 2011 Attention Items Update, requiring more information from APP to better define federal permitting agencies' data needs. The applicant has proposed to collect limited data in summer 2011 from the dredged channel leading to West Dock at Prudhoe Bay and a potential ocean disposal site, with plans to collect additional data as needed during 2012 or later. The data collected in 2012 may not be available for the October 2012 FERC filing, and anything collected later might be too late to submit for analysis in the environmental impact statement. The Corps has indicated that the final environmental impact statement must consider all of the required information before the agency could make a final decision on dredged material disposal. Until FERC and the Corps know more about which data the applicant will submit and when, there is a risk that APP might believe a piece of information is not required for the environmental impact statement while the agency and FERC believe it is.

In many cases, it is possible this phased approach to data submission will meet agency needs; FERC and federal permitting agencies will know more after a series of meetings this fall where APP will share specific details of its permitting plan. At the Federal Coordinator's urging, the applicant at those

meetings will discuss in detail its plan for data collection, data submission and permitting. It will be critical for agencies to convey to APP any data or timing constraints so that the applicant has ample time to adjust its approach as necessary.

An additional concern expressed with APP's permit plan had been FERC's requirement that federal agencies make a decision on any permits or authorizations required for the project within 90 days of the final environmental impact statement (as per FERC regulations of 2006 implementing provisions of the Energy Policy Act of 2005). This appears resolved with FERC, following discussions August 18 between APP, FERC and OFC. FERC has the ability to establish a schedule for each agency decision, if necessary, based on project-specific circumstances, effectively eliminating the 90-day requirement. Several federal agencies, however, may have existing policies or guidance that requires they meet the 90-day schedule. APP and FERC have agreed to work with the agencies to resolve this potential issue.

It is worth noting that although FERC is responsible for setting a schedule for the various federal permits, neither FERC regulations nor the Energy Policy Act of 2005 provide FERC with enforcement powers. Under the law, only a project applicant can seek enforcement of the 90-day requirement — and APP has acknowledged the permit scheduling conflict and has stated it will not move for enforcement of the time limit. The applicant should develop a schedule with the federal agencies that aligns the agencies responsibilities and permitting timelines and the project development schedule.

Landowner and Land Access (Tetlin National Wildlife Refuge)

A third issue that could potentially complicate project permitting is the final few miles of the pipeline route as it approaches the Alaska border with Canada's Yukon Territory. APP's initial plan, as stated in preliminary draft Resource Report 1 (project description), filed with FERC in April 2011, was to build the pipeline through the Tetlin National Wildlife Refuge near the U.S.-Canada border in Alaska. Congress created the refuge in the Alaska National Interest Lands Conservation Act of 1980. Title XI of ANILCA establishes a multi-agency, coordinated, tight-deadline process that must be followed and findings that must be made in determining whether federal agencies will approve construction of a transportation or utility system across land set aside under the act.

ANILCA requires the applicant to file a consolidated application with all "appropriate federal agencies" at the same time. Each appropriate federal agency has 60 days to review the application and determine whether it contains sufficient information to make all of the determinations required under ANILCA and under the agency's own applicable laws. This consolidated-application requirement will not allow for a phased-permitting approach; all of the information needed for the NEPA analysis and authorizations is required before any applications can be accepted as complete.

ANILCA further requires each agency that must issue a permit or license for the project to determine whether to approve the entire project at that time based on nine criteria listed in ANILCA and the agency's own applicable laws. If each agency approves the proposal in accordance with ANILCA and its applicable laws, the project is deemed approved through the refuge and each agency shall promptly issue its respective authorization under its applicable law. If any single agency fails to approve the project, the application in its entirety is deemed disapproved. The applicant then has the right to appeal to the President.

APP has determined that the ANILCA multi-agency process is too complex and conflicts with the applicant's permitting plan for the project, and is therefore pursuing other options for either staying with the originally proposed pipeline route or possible alternatives to bring the pipeline up to the connection point at the border. However, until the applicant settles on an alternative for routing the line through the corner of the Tetlin refuge, FERC, the Federal Coordinator's office and federal agencies must consider the plan provided in APP's report of April 2011, which would trigger the ANILCA-mandated process.

APP understands the dilemma and the need to identify a new route or other solution as quickly as possible, particularly because its October 2012 application to FERC must include all of the necessary environmental and other data on the selected pipeline route. APP has asked the Federal Coordinator's Office for assistance in evaluating alternatives to triggering the ANILCA provisions.

Subsistence

The applicant has been discussing with the Alaska Department of Fish and Game since last fall the need for community subsistence surveys to collect current information for the environmental impact statement, while at the same time FERC was pushing the applicant to solidify its plans for community subsistence surveys. FERC then sent a letter to APP on February 17, 2011, precisely defining the subsistence data that must be included in the FERC application, following which APP moved to contract with the Department of Fish and Game to develop a subsistence data collection plan and conduct and analyze community surveys. Fish and Game is the lead state agency in such work and has established relationships with rural communities to collect this culturally sensitive information. However, Fish and Game is constrained in the number of communities it can survey in a year. APP has provided a subsistence data collection plan to FERC, identifying 10 communities that will be surveyed in 2011 and an additional seven communities that will be surveyed in 2012. Only the 2011 survey results and analysis will likely be available for inclusion in APP's 2012 application to FERC; the 2012 survey results will come in during 2013 preparation of the environmental impact statement. Due to the significant amount of time required to collect and analyze subsistence data, the number of communities to be surveyed, and the short timeframe left before APP's filing to FERC, this item remains a critical-path issue. APP says it is working with FERC to ensure its application includes sufficient data to determine the project's affect on subsistence users and resources.

Critical-Path Issues

In addition to the above items, the February 2011 update identified ocean dumping of dredged material as a critical-path issue. Significant activities have been conducted on this issue and it has now been downgraded to a priority issue. Subsistence, Tetlin and the permit schedule issues cited above remain critical-path items. Geological studies, contaminated sites and Native land conveyances could become critical-path issues, depending on the route selected for the pipeline. At this time, APP is working on optimizing the pipeline route to avoid these issues as much as possible. The Federal Coordinator's office will continue to monitor these issues and regular updates to all of these items can be found at <http://www.arcticgas.gov/attention-items-details>.